

IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

	*	
Cecil Stephens, et al.		
Plaintiffs,	*	ASBESTOS CASES
vs.	*	Case No. 99-4868, et
al.		
AP Green Services, et al.	*	OPINION AND JUDGMENT
		ENTRY ORDERING A STAY
Defendants.		
	*	Hon. Robert V. Franklin
	*	

99-4868	Cecil Stephens vs. AP Green Services, et al.	Doneghy
99-4869	Donald Wilkerson vs. AP Green Services, et al.	Wittenberg
99-4870	Robert Dobbs vs. AP Green Services, et al.	Franks
99-4871	Howard Heard vs. AP Green Services, et al.	Christiansen
99-4872	Revard Anderson vs. AP Green Services, et al.	Lanzinger
99-4873	William Hackett vs. AP Green Services, et al.	Bowman
99-4874	Hansel Brown vs. AP Green Services, et al.	Bates
99-4875	Freddie Minshew vs. AP Green Services, et al.	Franks
99-4877	Erskine O. Bowers vs. AP Green Services, et al.	Bates
99-4878	Arvel Chamblee vs. AP Green Services, et al.	Christiansen
99-4879	William Sweeney vs. AP Green Services, et al.	Lanzinger
99-4880	Johnnie Quinzy vs. AP Green Services, et al.	Wittenberg
99-4881	Donald Kenum vs. AP Green Services, et al.	Skow
99-4882	Henry Hemrick vs. AP Green Services, et al.	Doneghy
99-4884	Boyd McLendon vs. AP Green Services, et al.	Wittenberg
99-4887	Horace Noah vs. AP Green Services, et al.	Skow
99-4888	John Stallings vs. AP Green Services, et al.	Bates
99-4890	David Porter vs. AP Green Services, et al.	McDonald
99-4891	James White vs. AP Green Services, et al.	Christiansen

99-4892	Johnny Burke vs. AP Green Services, et al.	Franks
99-4893	David Cannon vs. AP Green Services, et al.	Franks
99-4895	James Joshua vs. AP Green Services, et al.	Doneghy
99-4896	John Ford vs. AP Green Services, et al.	Jensen
99-4897	Clarence Cryar vs. AP Green Services, et al.	McDonald
99-4898	Willie Nichols vs. AP Green Services, et al.	Bates
99-4899	Joseph Daniel vs. AP Green Services, et al.	McDonald
99-4900	Freddy Keener vs. AP Green Services, et al.	Skow
99-4901	Henry Posey vs. AP Green Services, et al.	Jensen
99-4902	Bobby Farmer vs. AP Green Services, et al.	Bowman
99-4903	Bobby Gidley vs. AP Green Services, et al.	Bates
99-4904	Gerald Teat vs. AP Green Services, et al.	Franks
99-4905	Howard George vs. AP Green Services, et al.	Bates
99-4906	Ronald Patrick vs. AP Green Services, et al.	Wittenberg
99-4907	Troy Brown vs. AP Green Services, et al.	Bowman
99-4908	Billy Clough vs. AP Green Services, et al.	Lanzinger
99-4909	Melinee Dean vs. AP Green Services, et al.	Christiansen
99-4910	Marvin Woodall vs. AP Green Services, et al.	Jensen
99-4911	D.W. Howard vs. AP Green Services, et al.	McDonald
99-4912	Willie Nunn vs. AP Green Services, et al.	Doneghy
99-4913	Floyd Morgan vs. AP Green Services, et al.	Lanzinger
99-4914	James T. Cox vs. AP Green Services, et al.	Doneghy
99-4915	Johnny Rhodes vs. AP Green Services, et al.	Skow
99-4924	Donald Saxon vs. AP Green Services, et al.	Wittenberg
99-4926	Grady Elkins vs. AP Green Services, et al.	Bates
99-4928	Gerald Penny vs. AP Green Services, et al.	Skow
99-4935	Charles Amberson vs. AP Green Services, et al.	Bowman
99-4936	William Barnes vs. AP Green Services, et al.	Skow
99-4937	Mason Copeland vs. AP Green Services, et al.	Franks
99-4938	Charles Mintz vs. AP Green Services, et al.	Christiansen
99-4939	James Thompson vs. AP Green Services, et al.	Doneghy
99-4940	Ernest Barnett vs. AP Green Services, et al.	Wittenberg
99-4941	Millard Hale vs. AP Green Services, et al.	Lanzinger
99-4942	George Powell vs. AP Green Services, et al.	Franks
99-4944	Jack White vs. AP Green Services, et al.	Jensen
99-4945	Bobby Nunnally vs. AP Green Services, et al.	Lanzinger
99-4946	Odie Stephens vs. AP Green Services, et al.	Christiansen
99-4948	Thomas Brooks vs. AP Green Services, et al.	Franks
99-4951	Russell Faulkner vs. AP Green Services, et al.	Doneghy
99-4952	Reste Lindsey vs. AP Green Services, et al.	Bowman
99-4953	Loyd Henderson vs. AP Green Services, et al.	Skow
99-4956	Paul Allen vs. AP Green Services, et al.	Christiansen
99-4957	Calvin Duke vs. AP Green Services, et al.	Jensen
99-4960	Thomas Killian vs. AP Green Services, et al.	Christiansen
99-4961	Mickey Busby vs. AP Green Services, et al.	Bates
99-4962	Arthur Brothers vs. AP Green Services, et al.	Skow
99-5020	James E. Smith vs. AP Green Services, et al.	Doneghy
99-5021	James Bradley vs. AP Green Services, et al.	McDonald
99-5022	Hasker Threatt vs. AP Green Services, et al.	Franks
99-5023	Mary E. Cox vs. AP Green Services, et al.	Christiansen
99-5024	Dorothy King vs. AP Green Services, et al.	Bates

99-5025	Gerald Minshew vs. AP Green Services, et al.	Franks
99-5029	Edward Byers vs. AP Green Services, et al.	Jensen
99-5030	Jesse Story vs. AP Green Services, et al.	Bates
99-5032	Howard Cagle vs. AP Green Services, et al.	Wittenberg
99-5035	Glenn Brothers vs. AP Green Services, et al.	Bowman
99-5036	Allan Vickery vs. AP Green Services, et al.	Lanzinger
99-5037	Alfred Vaughn vs. AP Green Services, et al.	Skow
99-5038	Henry Turner vs. AP Green Services, et al.	Lanzinger
99-5039	Gerald Little vs. AP Green Services, et al.	Bates
99-5041	Windell Bush vs. AP Green Services, et al.	Christiansen
99-5054	Dafford Brewster vs. AP Green Services, et al.	Lanzinger
99-5057	Eugene Kinney vs. AP Green Services, et al.	Skow
99-5058	Willis Norton vs. AP Green Services, et al.	McDonald
99-5059	James Parker vs. AP Green Services, et al.	Christiansen
99-5060	Harry Quinn vs. AP Green Services, et al.	Lanzinger
99-5061	Walter Watts vs. AP Green Services, et al.	Doneghy
99-5068	Thomas Hines vs. AP Green Services, et al.	Bowman
99-5071	James Tilley vs. AP Green Services, et al.	Bates
99-5077	Melvin Barnes vs. AP Green Services, et al.	Franks
99-5079	Jack Thomas, Jr. vs. AP Green Services, et al.	McDonald
99-5080	Richard D. Sisco vs. AP Green Services, et al.	Skow
99-5083	Eddie B. Simms vs. AP Green Services, et al.	Bowman
99-5090	Mickey Williams vs. AP Green Services, et al.	Jensen
99-5092	Mary L. Johnson vs. AP Green Services, et al.	Lanzinger
99-5093	Ernest Marbuary vs. AP Green Services, et al.	Bates
99-5094	C.V. Chappell vs. AP Green Services, et al.	Jensen
99-5095	Raymond Pierce vs. AP Green Services, et al.	Franks
99-5096	Ralph Rowe vs. AP Green Services, et al.	Christiansen
99-5097	Robert Gordon vs. AP Green Services, et al.	Bates
99-5098	Ruby Taylor vs. AP Green Services, et al.	Bowman
99-5099	Jack Leftwich vs. AP Green Services, et al.	McDonald
99-5100	Walter B. Hall vs. AP Green Services, et al.	Christiansen
99-5101	Robert Vick vs. AP Green Services, et al.	Doneghy
99-5102	Shelly Veasy vs. AP Green Services, et al.	Lanzinger
99-5103	Samuel Byers vs. AP Green Services, et al.	Doneghy
99-5104	Joe Howard vs. AP Green Services, et al.	Bowman
99-5105	Harriel Bryant vs. AP Green Services, et al.	Skow
99-5106	Willie J. Sayles vs. AP Green Services, et al.	McDonald
99-5107	Adrian Simpson vs. AP Green Services, et al.	Franks
99-5108	Grady Hale vs. AP Green Services, et al.	Skow
99-5109	William Reed vs. AP Green Services, et al.	Christiansen
99-5110	Joe Reynolds vs. AP Green Services, et al.	Franks
99-5111	James M. Scott vs. AP Green Services, et al.	Franks
99-5112	Jimmy Leftwich vs. AP Green Services, et al.	Skow
99-5113	Percy Petty vs. AP Green Services, et al.	Lanzinger
99-5114	William Anderson vs. AP Green Services, et al.	Bowman
99-5115	William Hicks vs. AP Green Services, et al.	Bates
99-5116	John Smith vs. AP Green Services, et al.	Jensen
99-5117	Hershel Lister vs. AP Green Services, et al.	Bates
99-5118	Ellis Christian vs. AP Green Services, et al.	Wittenberg
99-5119	Euil Roberson vs. AP Green Services, et al.	Jensen

99-5120	Billy Johnson vs. AP Green Services, et al.	Skow
99-5121	H.W. Rigsby vs. AP Green Services, et al.	Bowman
00-2770	Zoul vs. AP Green Services, et al.	Jensen
00-2826	Bowles vs. AP Green Services, et al.	Lanzinger
00-3124	Maiorano vs. AP Green Services, et al.	Skow
00-3563	Bunden vs. AP Green Services, et al.	Christiansen
00-3654	Bunch vs. AP Green Services, et al.	Wittenberg
00-4299	Teeple vs. AP Green Services, et al.	Bowman
00-4300	Colins, Jr. vs. AP Green Services, et al.	Doneghy
00-4929	Bailey vs. AP Green Services, et al.	Franks
00-4930	John Ramey vs. AP Green Services, et al.	Wittenberg

----- \* -----

These asbestos cases are before the Court following the notice of bankruptcy filings of defendants Owens Corning, Fiberboard Corporation, Nitram Liquidators, Inc., Desseaux Corporation of North America, and Armstrong World Industries, Inc.<sup>1</sup> (collectively referred to herein as "the debtor-defendants"). The debtor-defendants filed for Chapter 11 bankruptcy protection in the United States Bankruptcy Court for the District of Delaware. The debtor-defendants were assigned case numbers 00-3837 (Owens Corning), 00-3842 (Fiberboard Corporation), 00-4469 (Nitram Liquidators, Inc.), 00-4470 (Desseaux Corporation of North America), and 00-4471 (Armstrong

---

<sup>1</sup>

Notice as to defendants Owens Corning, and Fiberboard Corporation was filed with this Court on October 30, 2000. (See Appendix A.) Notice as to defendants Nitram Liquidators, Inc., Desseaux Corporation of North America, and Armstrong World Industries, Inc. was filed with this Court on December 18, 2000. (See Appendix B.)

World Industries, Inc.). (See Appendices A and B.) The instant cases in this Court are automatically stayed as against the debtor-defendants pursuant to Section 362(a), Title 11, United States Code. See In re: United Health Care Org. (S.D.N.Y.1997), 210 B.R. 228, 232. Upon review of the record, and applicable law, the Court finds that it must stay the entire proceedings in the instant cases.

The long-standing practices of this Court and of the Sixth Appellate District are to stay an entire case, as to all defendants, pending the release of a debtor-defendant from the jurisdiction of the bankruptcy court. See Markey Bronze Corp. v. Hoffman (May 18, 1984), Fulton App. No. F-83-12, 1984 Ohio App. Lexis 9865, unreported (citing Section 362(a), Title 11, United States Code, the Sixth Appellate District stayed the entire case on appeal after one of several defendants filed a voluntary petition for bankruptcy). The decision to stay an entire case lies within the sound discretion of the court. Sorg v. Montgomery Ward & Co. (June 30, 1999), Erie App. No. E-98-057, 1999 Ohio App. Lexis 3019, unreported, \*4-5.<sup>2</sup> A trial court

---

2

A trial court's decision to stay a case as to all defendants is final and appealable pursuant to R.C. 2505.02(B)(4). Sorg v. Montgomery Ward & Co., Inc. (Dec. 17, 1998), Erie App. No. E-98-057, 1998 Ohio App. Lexis 6312, unreported, \*7-8.

does not abuse its discretion to stay the entire proceedings when there exists "an identity of interest between all defendants"; to sever such a case, and hold ultimately two or more trials, would be highly inefficient. Id. at \*5. Where parties and/or issues are so related and interconnected, "the sound principals of judicial economy warrant avoiding duplicative and piece-meal litigation." Sowell v. United Cos. Lending Corp. (July 27, 2000), Cuyahoga App. No. 76389, 2000 Ohio App. Lexis 3374, unreported, \*4-5, citing Sorg v. Montgomery Ward & Co., supra, 1999 Ohio App. Lexis 3019, unreported.

The Court notes that in the instant asbestosis cases, of the original seventy-plus defendants who were manufacturers, distributors, and/or installers of asbestos or asbestos containing products, over sixty-five defendants remain. The relatedness and interconnectedness of all of the defendants and of the issues involved present a likelihood that the Court will be burdened with an unnecessary multiplicity of proceedings, many of which may be duplicative and inconsistent, if these cases proceed without the debtor-defendants. Accordingly, in the interest of judicial economy, the Court finds that it must now order the entire proceedings in the instant cases stayed pending a release of the stays against the debtor-defendants by

the bankruptcy court.

**JUDGMENT ENTRY**

It is ORDERED that the instant asbestosis cases are stayed in their entirety pending a notification of the United States Bankruptcy Court's release from stay of the debtor-defendants herein. The Court finds no just reason for delay. The ten individual judges on the General Division bench concur in this entry. See Addendum.

January \_\_\_\_, 2001

---

Robert V. Franklin, Judge

**ADDENDUM**

We concur in the foregoing Opinion and Judgment Entry.

\_\_\_\_\_  
Judge William J. Skow

\_\_\_\_\_  
Judge Robert G. Christiansen

\_\_\_\_\_  
Judge Charles J. Doneghy

\_\_\_\_\_  
Judge Ruth Ann Franks

\_\_\_\_\_  
Judge Judith Ann Lanzinger

\_\_\_\_\_  
Judge James D. Bates

\_\_\_\_\_  
Judge Frederick H. McDonald

\_\_\_\_\_  
Judge Charles S. Wittenberg

\_\_\_\_\_  
Judge J. Ronald Bowman

\_\_\_\_\_  
Judge James D. Jensen

\_\_\_\_\_ \* \* \* \_\_\_\_\_